

obtained listing approval in Kuala Lumpur. According to the claimant (Mr. Chng) in his affidavit in support of the application by way of motion for a case stated he was in London consulting leading counsel from April 7 to April 17. On his return to Singapore, he was in communication with the Stock Exchange of Kuala Lumpur from whom he learned that Sime Darby had not obtained listing approval. It is quite apparent from this that the claimants were considering what their legal position was before they made their election and finally they wrote to Sime Darby on May 10, 1976 rescinding the contract i.e. five weeks after discovery that listing approval had not been obtained. This 5 weeks in my opinion is a very reasonable time; the law permits them a reasonable time within which they have to elect i.e. either to affirm or reject. In my view, in the totality of the circumstances their acts in making the four payments did not constitute affirmation of the contract because their conduct during this period refutes this.

I would like to refer to the third submission made by learned counsel for Sime Darby that on the proper construction of the contract, the claimants' claim must fail and this is — "Because on the true construction of the contract, alternatively by reason of a term implied to avoid absurdity, the claimants right to invoke clause 17 ceased on his opting to take cash and losing all possible interest in the shares in September 1975".

This does not mean that the Claimants gave their shares *carte blanche* to Sime Darby for them to do what they liked with the shares; Document 346 in Bundle C states categorically and I quote: — "to credit the proceeds to my account with the Chartered Bank in permanent reduction of the outstanding amounts together with accrued interest advanced to me by a consortium of banks."

It is only for this reason that the claimants authorised Sime Darby to sell their shares because they were assured that the proceeds of sale would obtain a return of at least \$32 million if not more. The circumstances would have been completely different had the shares appreciated in value. As things turned out they did not. But this does not absolve Sime Darby from their obligation under the placement agreement. Once again I cannot accept the submission of learned counsel for Sime Darby.

In clause 26(f) of the Award, the learned Arbitrator came to the conclusion that the claimants were precluded by estoppel from asserting the Share Sale Agreement was not unconditional. All the acts of Sime Darby prior to April 3, 1976 was in each case done pursuant to some obligation or entitlement under the three agreements reached on March 29, 1973 between the parties. As for the claimants' authorisation after April 3, 1976, I am not satisfied that such an act amounted to "a clear and unambiguous" promise on the part of the claimants that they were not insisting on the provisions of clause 17. To quote the language of Mr. Justice Littledale in *Re Salkeld*⁽⁵⁾ for waiver to be operative so that a party's claim is estopped, it must be "unequivocal, definite, clear, cogent and complete".

The nature of the conduct giving rise to estoppel was dealt with by the House of Lords in *Woodhouse*

A.C. Israel Cocoa Ltd. v. Nigerian Produce Marketing Co. Ltd.⁽⁶⁾ This case arose out of the devaluation of the sterling pound. The buyers anticipating devaluation of the sterling, requested variation of the terms concerning payment in a letter. The sellers granted a variation in different terms. It was accepted in that case that the buyers' interpretation of the sellers' letter was as reasonable as the different interpretation of the sellers. Nevertheless it was held that there was not in the sellers' letter a sufficiently unambiguous representation to found an estoppel.

The learned Arbitrator came to the conclusion that prior to May, 10, 1976, it had ceased to be possible to give *restitutio in integrum* to the parties of the Share Sale Agreement. Here again, I am of the view that the learned Arbitrator had erred in law. At Common Law the strict rule is that restitution must be as to the whole. However, Equity allows the taking of accounts and as long as the parties could be restored to the position substantially as before, the party seeking rescission would not be denied the right — Chitty on Contract 24th Edition, paras. 399-400.

Clause 17 itself contains the terms under which the Share Sale Agreement could be unscrambled. The procedure as set out and as agreed by the parties in that clause ought to be followed.

In all the circumstances I therefore answer the question before this court in the affirmative. As the learned Arbitrator has made his award in respect of prayers 1 and 2 of the claimants' amended points of claim, I now make an order in terms of prayers 3 and 4 of the claimants' claim in the points of claim. As conditions for the rescission of the Share Sale Agreement, the claimants are to refund to Sime Darby all *bona fide* expenditure for the improvements of Orchard Towers and to return the 4 million Sime Darby shares.

Claim allowed.

Solicitors: Lee & Lee; Drew & Napier.

HOWE YOON CHONG v. CHIEF ASSESSOR, PROPERTY TAX, SINGAPORE

[O.C.J. (Rajah J.) March 27, 1978]

[Singapore — Originating Motion No. 30 of 1975]

Property Tax — Rating — Valuation — When Chief Assessor can act to amend valuation list — Transfer without consideration — Procedure before Valuation Review Board — Appellant entitled to cross-examine Chief Assessor on valuation — Appellant entitled to inspection of valuation lists — Relevance of assessment of comparable premises — Property Tax (Fees) Regulations, 1975 Property Tax Act (Cap. 144), ss. 4, 18 & 63.

This was an appeal from an order of the Valuation Review Board. The property in question was sold to one Howe Min Cheng and another who purchased it as tenants in common in equal shares for \$20,000. Subsequently there was a transfer by Howe Min Cheng of the one undivided equal half share standing in his name to the appellant. The Commissioner of Stamps was satisfied that no consideration had passed and the deed was duly stamped at \$10. A notice of the transfer was given to the Chief Assessor who thereupon served a notice to amend the Valuation List by increasing the annual value of the property from \$1,340 to \$26,000. The appellant objected to the amendment and gave notice of the objection to the Chief Assessor. The Chief Assessor turned down the objection and the appellant appealed to the Valuation Review

Board. At the hearing before the Board the appellant's valuer gave sworn evidence on which he was cross-examined. The Chief Assessor himself gave no evidence nor did he call anyone to give evidence on his behalf. The Valuation Review Board did not accept the evidence of the appellant's valuer and in the circumstances relied on the report of the chief assessor and dismissed the appeal. The appellant appealed.

Held: (1) the procedure adopted by the Valuation Review Board in the appeal was wrong. The Chief Assessor or his representative should also have been called on to give sworn evidence on the valuation of the property on which he could then have been cross-examined by appellant. The Board should not have treated the Report of the Assessor as evidence. Once the Board had rejected the evidence of the appellant's valuer there was no other valuation before it, for the simple reason that the Chief Assessor had not called any evidence upon it;

(2) the appellant was entitled to have free inspection of the valuation lists from 1960 to 1975 as requested by him;

(3) in so far as the Property Tax (Fees) Regulations purported to levy fees they are *ultra vires* the Property Tax Act and therefore void and of no effect;

(4) the transfer of the undivided half share to the appellant in this case was a transaction in respect of which no consideration passed and the transfer only operated to transfer the bare legal estate to the appellant, the beneficial interest having been with him since November 1960;

(5) in this case, therefore, the Chief Assessor had acted outside the scope of section 18(7)(a)(iii) of the Property Tax Act and therefore the notice issued by him was invalid and of no effect and any proceedings stemming from it were null and void.

Case referred to:-

- (1) *Ladies' Hosiery and Underwear Ltd. v. West Middlesex Assessment Committee* [1932] All E.R. Rep. 427.

ORIGINATING MOTION.

D.G. Widdicombe Q.C. (*P. Selvadurai* with him) for the appellant.

James Chia (*G. Singh* with him) for the respondent.

Rajah J.: This is an appeal from an Order of the Valuation Review Board, made on the 10th day of December, 1975, in Valuation Review Board Appeal No. 80 of 1974, raising the annual value of a piece of vacant land known as T.S. 27 Lot No. 61¹³⁴ at Peck Hay Road, Singapore, from \$1,340 to \$26,000. A short history of this property may be of interest.

On the 27th of October, 1951, one Lim Chong Pang and Lim Chong Min, administrators of the Estate of Wee Peck Hay, the widow of Lim Nee Soon, sold the property to one Oh Moh See for the sum of \$26,775. Its annual value was then fixed at \$1,340 which, to the nearest figure, is 5 percent of the sale price.

On the 20th of November, 1960, Oh Moh See sold the property to one Howe Min Cheng and Another who purchased it as tenants-in-common in equal shares for \$20,000. No steps were taken either by the Chief Assessor or by the owners to re-assess the annual value, even though the sale price of the property had been reduced by about 25 percent. If the annual value had been fixed on the then sale price it would have been \$1,000.

On the 4th of April, 1973, there was a transfer by Howe Min Cheng of the one undivided equal half-share standing in his name to the appellant. The deed of transfer was duly stamped at \$10 as a deed on which no consideration had passed, the Commissioner

A of Stamps having made all necessary inquiries and having satisfied himself that no beneficial interest passed thereunder and that only a bare legal estate passed from the transferor to the transferee, the appellant.

A notice of transfer by the transferor of the said one undivided equal half-share dated June 29, 1973, was sent to the Chief Assessor in the normal way. **B** The Chief Assessor thereupon served a notice dated the 1st day of October, 1973, on the co-owners under section 18(2) of the Property Tax Act (Cap. 144) to amend the Valuation List by increasing the annual value of the said property from \$1,340 to \$26,000 with effect from April 4, 1973. The appellant objected to such amendment and gave notice of such objection to the Chief Assessor. **C** The Chief Assessor turned down the objection and the appellant thereupon appealed on March 29, 1974, under section 18(4) of the Act to the Valuation Review Board.

A report — set out in Appendix A — purporting to be from the Chief Assessor under section 28(1) of the said Act dated November 1, 1974, was sent to the Valuation Review Board. Under this section the Chief Assessor "shall . . . submit to the Board a report setting out the facts of the case, together with his recommendations, if any, for revision of the annual value." All that the report is statutorily required to set out is —

- D** (i) the facts of the case, and
(ii) his recommendations, if any.

However, it will be noticed that the Chief Assessor in his report, which was marked "Confidential", set out his Basis of Assessment, Comparisons and his Submission and that this is something more than what he was statutorily obliged to do.

F Under the Act the Chief Assessor is not called upon to give a copy of the report to the taxpayer. It would seem, therefore, more particularly as it is marked "Confidential", that it is a document intended for the sole use and convenience of the Board.

G The appeal came on for hearing before the Valuation Review Board on the 10th of December, 1975. The appellant's valuer gave sworn evidence on which he was cross-examined. The Chief Assessor himself gave no evidence nor did he call anyone to give evidence on his behalf.

H The Valuation Review Board in its Oral Grounds of Decision, dated the 10th day of December, 1975 — set out in Appendix B — did not accept the evidence of the appellant's valuer (Appendix B, page 4G), and went on to say —

"That being so we are then left with the only other valuation that has been made, and that is by the Chief Assessor's representative, Mr. Chong Koi Chim, and that is set out in the Report to the Board. (Appendix B, page 5B)."

I Having rejected the evidence of the appellant's valuer, the Board then relied upon the valuation of a Mr. Chong Koi Chim (who had signed the report for the Chief Assessor without giving his designation or status) and dismissed the appeal. Acting on the recommendation of the Chief Valuer, set out in the report, the Board confirmed as from April 4, 1973, the annual value for the property for the year 1973

as at \$26,000. In my view the Basis of Assessment, Comparisons and the Submission (see Appendix A) were not evidence before the Board and should not have been treated as such. Therefore, once the Board had rejected the evidence of the appellant's valuer there was no other valuation before it, for the simple reason that the Chief Assessor had not called any evidence on it.

Further, the Board having conducted the case in the way it did, that is to say by taking sworn evidence of the valuer of the taxpayer on which he was cross-examined by the Chief Assessor, the Chief Assessor or his representative should also have given sworn evidence on the valuation of the subject property, on which he could then have been cross-examined by the appellant. If the Chief Assessor or his representative chose not to give evidence on oath, the Board should then have drawn the proper inferences.

It is axiomatic in our system of jurisprudence that the taxpayer should be given the same opportunity of cross-examining the Chief Assessor or his representative as he has of cross-examining the valuer of the taxpayer. In my view, the procedure adopted by the Valuation Review Board in this appeal was wrong. The principles of natural justice should have been observed and full adherence given to them. The Valuation Review Board is a tribunal exercising judicial functions and it is neither fair nor just that the taxpayer be subjected to cross-examination on oath while on the other hand the Board accepts the Chief Assessor's Basis of Assessment and Submission set out in the report, on which he has not been tested by cross-examination, and his statements on valuation from across the Bar Table.

Against the decision of the Valuation Review Board the appellant now appeals to the High Court, by way of originating motion. On January 6, 1978, the appellant served on the Chief Assessor a Subpoena to produce in the High Court the Valuation Lists from 1960 to 1975, the free inspection of which was being denied to him.

On January 10, 1978, the Chief Assessor applied to the High Court to have the Subpoena set aside or varied on the ground that the issue of such a writ is —

- (i) oppressive and vexatious, and
- (ii) an abuse of the process of the court.

I have read with interest the affidavits filed in the application and the exhibits therein referred to. I think it a great pity that this kind of controversy could develop between the Assessor's Department and a taxpayer, the tax on whose property is being put up by the Chief Assessor and on which he has documentation which the taxpayer wishes to inspect for the purposes of his appeal.

In paragraph (3) of the affidavit of Mr. James Chia filed on the 10th of January, 1978, he states (*inter alia*): —

"On the 30th of December, 1977, I replied to Mr. P. Selvadurai stating that his request for inspection of the properties in the Valuation Lists for the years 1960 to 1975 could be met on payment of the required fees, as governed by the Property Tax (Fees) Regulations, 1961, as amended...."

A From the statement of Mr. James Chia, it would appear that the question of inspection turned on whether the appellant was willing to pay a fee of \$20 per inspection per property.

B The upshot of the matter was that the appellant had to seek the help of the High Court to get the evidence which he thought necessary to prosecute his appeal. If the Assessor had perhaps been a little less dogmatic and had read his Property Tax (Fees) Regulations, 1975 perhaps a little more dispassionately, I think he might, as indeed I think he should, have acceded to the request of the appellant for inspection without the payment of any fee whatsoever.

C It therefore becomes necessary to examine these regulations on which the Chief Assessor was relying to deny the taxpayer free inspection of the Valuation Lists. The Property Tax (Fees Regulations, 1975) reads as follows —

"THE PROPERTY TAX ACT (CHAPTER 144)

THE PROPERTY TAX (FEES) REGULATIONS, 1975.

D In exercise of the powers conferred by section 63 of the Property Tax Act, the Minister for Finance hereby makes the following Notification:—

- 1. These Regulations may be cited as the Property Tax (Fees) Regulations, 1975, and shall come into operation on 1st day of January, 1976.
- 2. The fees set out in the Schedule shall be chargeable by the Comptroller.
- E 3. The Comptroller may waive collection of the said fees from such Government departments as he may think fit.
- 4. The Comptroller may, in lieu of the said fees, charge any statutory corporation such lesser sum as he may think fit.
- 5. The Property Tax (Fees) Regulations, 1961, are hereby cancelled.

THE SCHEDULE

- F (a) For written or verbal information on one or more of the following items relating to each property:—
 - (i) ownership }
 - (ii) annual value }
 - (iii) situation }
 - (iv) number }
 - (v) as to whether notices have been served under section 11(2), 18(2) or 19A(1) of the Act } \$20.00
 - (vi) as to whether the property tax has been paid and, if not, the amount outstanding }
- G (b) For attendance in court to give evidence as to annual value by
 - (i) Division I Officers \$50.00
for each half-day's attendance or part thereof.
 - (ii) Divisions II and III Officers \$30.00
for each half-day's attendance or part thereof.
 - (iii) Division IV Officers \$15.00
for each half-day's attendance or part thereof.
- (c) For each notice of demand issued under section 34(1) of the Act \$ 1.00
- (d) For each warrant of attachment issued under section 35(1) of the Act \$ 5.00

Made this 23rd day of December, 1975."

Reading Regulation 2 with (a) in The Schedule, it appears to me that what attracts a fee of \$20 is the providing of a written or verbal information on one or more of the listed items by the Assessor's Department to a member of the public. The Schedule says nothing about fees for 'inspections'. What the appel-

lant in the instant case was asking of the Chief Assessor was not for 'written or verbal information'. He was merely asking for an inspection of some of the Valuation Lists. To state the obvious, an inspection by a taxpayer is quite different to written or verbal information supplied by the Chief Assessor on request. The Chief Assessor, in my view, should have acceded to the appellant's request not only because there was nothing in the said Regulations which permitted him to demand a fee of \$20 per inspection but also because the whole tenor of the said Act is such that when there are such disputes between the taxpayer and his Department as to annual values the former should be given inspection of the documents concerned.

This, of course, raises the larger and more important question of whether the Minister himself had the powers to frame regulations as to fees under section 63 of the Act. He declares that he has framed the said regulations in exercise of the powers conferred on him by section 63 of the Property Tax Act. It therefore becomes necessary to examine section 63 of the Act which reads—

"63.—(1) The Minister may make regulations:—

- (a) prescribing the manner in which appeals shall be made to the Board;
- (b) prescribing the procedure to be adopted by the Board in hearing appeals and the records to be kept by the Board;
- (c) prescribing the places where and the times at which appeals shall be heard by the Board;
- (d) prescribing the forms or any other matter which by this Act is required to be or may be prescribed; and
- (e) generally for the better carrying out of the provisions of this Part of this Act.

(2) The Minister may in lieu of making any regulation prescribing the forms which by this Act are required to be or may be prescribed, authorise the Comptroller to prescribe such forms as the Comptroller thinks fit."

For this purpose it is section 63(1)(a), (b), (c), (d) and (e) that one need concern oneself with.

When the attention of Mr. James Chia, counsel for the Chief Assessor, had been drawn to this matter and when he addressed the court on it, he gave it as his considered view that he was relying not on section 63 of the Property Tax Act to justify these regulations but on section 47(1) of the Interpretation Act (Cap. 3), which reads—

"47.—(1) Whenever any act requires to be done or a service performed by a public body, statutory authority or a public officer under or in connection with any written law, and no special provision is made thereby or thereunder for making a charge in respect of such act or service, the Minister may, by order published in the *Gazette*, provide for the imposition of such fees or charges as he may consider proper."

I have every sympathy for Mr. James Chia for he is in a very difficult situation here. The Minister in this matter exercised his powers under section 63 of the Act; if he had wished to exercise his powers under the Interpretation Act he should have said so in his declaration, which he did not. He has exercised his powers only under section 63 of the Act and section 63, as can be seen from a plain reading of it, gives him no power to levy fees. He has, therefore, in my judgment, acted *ultra vires* the Act, and the Property Tax (Fees) Regulations, 1975 are null and void and of no effect. I am supported in my view by section 4(1) of the Act which reads—

A "4.—(1) The Comptroller shall be responsible generally for the carrying out of the provisions of this Act and for the collection of property tax and shall pay all amounts collected in respect thereof into the consolidated fund."

This section empowers the Comptroller to collect property tax and obliges him to pay all such sums into the consolidated fund. It will be noted that section 4(1) does not call upon the Comptroller to collect any fees to be levied by the Minister under the Act or any other Act. If it is contended that the Comptroller has power under the said Act to collect these fees, what does he do with such fees? The Act places no obligation on him to pay them into the consolidated fund. In my view, if the Legislature had intended that fees were to be collected under the Act I cannot imagine that it would not have provided specifically under section 4(1) or some other section of the Act for its destination.

I now come to the application of the Chief Assessor which sought the setting aside or variation of the Subpoena on the ground that its issue was oppressive and vexatious and an abuse of the process of the court. It was nothing of the sort. It was a process properly issued and in vindication and furtherance of the rights of the appellant. Its issue has been justified, for on the 13th of January, 1978 a consent Order was made whereby the parties agreed that they would come to certain arrangements with regard to the sighting of these Valuation Lists which the appellant E thought, rightly or wrongly important to his appeal.

I now come to the substance of the appeal. It will be useful at this stage to set out the relevant provisions of section 18 of the Act—

F "18.—(1) Where it appears that any Valuation List is or has become inaccurate in any material particular, the Chief Assessor may, on the application of any person interested, or otherwise, and in the manner hereinafter provided, amend the Valuation List accordingly.

(2) When, in pursuance of subsection (1) of this section, the Chief Assessor considers it desirable that an amendment should be made to any Valuation List he shall give notice thereof to the owner of the property concerned stating what amendment is considered desirable and the date from which it is proposed the amendment shall take effect.

G (7) For the purposes of this section, the Valuation List shall be deemed to be inaccurate in a material particular where—

(a) the Chief Assessor is of the opinion that the annual value of a property included in the Valuation List does not correctly represent the annual value evidenced by—

H (i) the rental obtained from a tenant in respect of a property previously occupied by the owner;

(ii) the increased or decreased rental obtained in respect of the letting out of that or similar property; or

I (iii) the consideration paid or value passing on the sale or transfer directly or indirectly of any estate or interest in that or similar property, including the sale or transfer of seventy-five per cent or more of the issued ordinary shares of a land-owning company, whether or not the Chief Assessor exercises the option given in paragraph (b) of the proviso to the definition of 'annual value' in section 2 of this Act;

(b) the Chief Assessor is of the opinion that the rental, if any, obtained from the tenant is lower than the gross amount at which the property could reasonably be expected to be let from year to year;

(c) any new building is erected or any building is re-built, enlarged, altered, improved or demolished;

(d) property, not exempted from the provisions of this Act, has not been included in the Valuation List.

Provided that any alteration to a Valuation List required for the purpose of correcting any of the matters referred to in paragraphs (a), (b) and (d) of subsection (2) of section 9 of this Act or for the correction of any clerical or arithmetical error therein, shall not in itself constitute an amendment and may be made at any time."

It was not in dispute that the ground on which the Chief Assessor had served his notice under section 18(2) was section 18(7)(a)(iii). Counsel for the appellant, Mr. Widdicombe, primarily contended that the notice served by the Chief Assessor under section 18(2) of the Act was invalid for the reason that he had no grounds under section 18(7) of the said Act which enabled him to serve the said notice, and more particularly, that section 18(7)(a)(iii) on its true construction, and on the facts of the case, was not a ground the Chief Assessor could have used for action under section 18(2). He submitted that if I upheld him on this point then that would dispose of the whole appeal. He went on to contend further that, if his first proposition was not sufficient to dispose of the appeal, the 1973 Annual Valuation List, in respect of which the section 18 action had been taken by the Chief Assessor, was in itself invalid for the reason that the preparation of the Annual Valuation List in question is contrary to the provisions of Article 8 of our Constitution, which reads —

"8. All persons are equal before the law and entitled to the equal protection of the law."

Section 11 provides for the revision of the current Valuation List once a year in the month of August and section 13 provides for amendments thereto and authentication thereof. Further, the Chief Assessor by virtue of section 18 of the Act is enabled to take action from time to time, as he thinks fit, during the life of a current Valuation List to amend the annual value of properties in such list which on the grounds set out in section 18(7) warranted amendment.

Mr. Widdicombe's complaint insofar as this particular notice is concerned is this, that the transfer to his client of the one undivided equal half-share was not a transfer for a consideration but was merely a transfer of the bare legal estate from a trustee vested with such estate (the transferor) to the appellant (the beneficiary) who since November 1960 had had the beneficial interest in such half-share. He urges upon me to construe section 18(7)(a)(iii) of the Act to mean that only in cases where there has been consideration passing does it enable the Chief Assessor to make use of it for action under section 18(2) of the Act. He says that in this transfer to the appellant no consideration passed and that the stamping of the transfer document at \$10 proves this.

Further, he urges upon me that, even if consideration did pass for this undivided half-share (which he does not admit), as the other undivided half-share yet remains in the other co-owner — and on this there is no dispute — this fact in itself would operate to take the matter outside the ambit of section 18(7)(a)(iii) of the Act.

I agree with Mr. Widdicombe that the transfer of the undivided half-share to the appellant was a transaction in respect of which no consideration passed and that the said transfer only operated to transfer

A the bare legal estate to the appellant, the beneficial interest having been with him since November 1960.

The Chief Assessor, through his counsel, Mr. Chia, has stated that it was the notice of transfer relating to the transfer of the undivided half-share to the appellant which brought about his action under section 18(2) of the Act.

B I accept Mr. Widdicombe's submissions on sections 18(2) and 18(7)(a)(iii) of the said Act. In my judgment, the Chief Assessor acted outside the scope of the said section 18(7)(a)(iii) and therefore Notice No. A.117324 dated October 1, 1973, is invalid and of no effect and any proceedings stemming from it are null and void. This, in my view, is enough to dispose of this appeal in favour of the appellant.

C But I am asked by counsel to say something about the applicability in Singapore of the case of *Ladies' Hosiery and Underwear Ltd. v. West Middlesex Assessment Committee*⁽¹⁾ (hereinafter referred to as "the *Hosiery Case*"), as it would appear that it has now become part of the thinking of the Chief Assessor's Department.

D One must therefore examine the facts in the *Hosiery Case*, remembering and keeping in mind always that in England it is the occupier who pays the rates (taxes) while in Singapore it is always the owner who pays property tax. In a very few exceptional cases, owners in England are called upon to pay rates, but here again the basis on which properties are valued and rated is an occupational one.

E In the *Hosiery Case* it was admitted by the ratepayers that the subject premises was correctly assessed at £325 according to statute. Their only witness agreed that the rent which might be expected to be obtained for their premises would be "at least £325" upon the terms of a letting from year to year. There was no dispute in the *Hosiery Case* as between the ratepayers and the Assessment Committee on the question of whether the premises had been correctly assessed for rating purposes. The complaint of the ratepayers was that seven other comparable premises had been assessed at sums below the rents which could have been obtained therefor but they did not object to nor seek to alter the valuation of these seven premises, as indeed they could have done under the Rating and Valuation Act, 1925 (but which be it noted is not possible under the Property Tax Act), but proposed to use these valuations as evidence that the proposed valuation of their premises was "excessive and unfair".

F In these circumstances, the Court of Appeal decided "that the assessing authority should not sacrifice correctness to secure uniformity, but, if possible, obtain uniformity by correcting inaccuracies rather than by making an inaccurate assessment in order to secure uniform error (page 432C)". It will be noted that the inaccuracies in the seven assessments could not be corrected and so secure a correct uniformity because the ratepayers had given no notice to the seven occupiers and did not ask that their assessments should be corrected, which would have secured uniformity. At page 432I Scrutton L.J. says —

G "In these circumstances, in my opinion, quarter sessions were not justified in disregarding the uncontroverted evidence that

the assessment was a correct statement of the gross value according to the statutory definition, [see 68(1) of the Rating and Valuation Act], and altering it to an incorrect statement in order to secure uniformity in error."

In the instant case, the annual value of \$26,000 recommended by the Chief Assessor was hotly contested by the appellant, whose valuation was very much below that of the Chief Assessor's. Further, in England there is procedure under the Rating and Valuation Act which a ratepayer can avail himself of, if he feels that other properties similar to his have been under-assessed, whereas in Singapore such procedure is not available to a property taxpayer, and it is not possible for him to serve notices on other taxpayers regarding their particular assessments.

On these two very material points the *Hosiery Case* differs from the instant case and cannot therefore be applied to the facts of the instant case. By this I am not to be taken to mean that in no circumstances could the *Hosiery Case* be applied in Singapore.

For these reasons I allowed the appeal with costs.

O.M.30/75
APPENDIX 'A'

REPORT TO THE VALUATION REVIEW BOARD
CONFIDENTIAL APPEAL NO. 80/74

Type of Case:

Disputed Annual Value.

Property:

TS 27 Lot 61-134 — Land at Peck Hay Road.

Description of Property:

This is a trapezoidal piece of vacant land located less than 50 yds. from the junction of Peck Hay Road/Clemenceau Avenue and it is situated in a secluded and quiet residential district of Cairnhill — see site plan attached hereto.

The land is a right-of-way off Peck Hay Road and is about 19 ft. above road level. At the rear is an unmade-up road which is about 13 ft. above this land. Access to the subject land is by 22 ft. wide right of way from Peck Hay Road. The land is zoned "Residential" in the Master Plan and with a maximum density of 150 persons per acre.

Land Area:

14,875 sq. ft.

Owner:

Mr. Howe Yoon Chong,
9 Binjai Walk, Singapore.

Proposed Annual Value:

Section 18(2) Notice No. A117324 dated 1.10.73 proposing an annual value of \$26,000 with effect from 4.4.73.

Section 12(3) Notice No. B19097 dated 11.3.74 making no amendment to the proposed Annual value of \$26,000 with effect from 4.4.73.

Previous Annual Value:

\$1,340.

Owner's Desired Annual Value:

\$1,340 with effect from 4.4.73.

Grounds of Appeal:

"1. The proposed annual value of \$26,000 as against \$1,340 is manifestly excessive and wrong in law.

2. The Chief Assessor erred in law and in fact in increasing the annual value of the Appellant's property in comparison to other adjoining properties in the locality.

3. The proposed annual value by this objection should be made at \$1,340."

A Further Grounds of Appeal: (submitted on 18.9.74)

Further to the grounds of appeal filed herein on the 29th March 1974, the Appellant would also contend that:

- (a) The Chief Assessor erred in law and in fact in increasing the annual value of the Appellant's property in comparison with other similar properties in Singapore; and
- (b) The proposed valuation or increased valuation of the Appellant's property is *ultra vires* the Property Tax Act Cap. 144 and the Constitution of the Republic of Singapore.

B

Representative of Owner:

M/s Rodyk & Davidson,
24 Chartered Bank Chambers, Singapore.

C

Basis of Assessment:

Estimated Capital Value:

Land Area 14,875 sq. ft. @ \$35 per sq. ft. = \$520,625.00

Annual Value @ 5% = \$ 26,031.25

∴ Proposed Annual Value, say \$ 26,000.00

Comparisons:

T.S. Lot
D XXVII 61-126

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Peck Hay Rd.	14,283	585,603	41.00	C4/73

Remarks: Vacant land adjacent to subject property. Planning approval for 10/s apartments.

T.S. Lot
E XXVII 106-6

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Cavenagh Rd.	72,328	2,729,650	37.74	C5/75

Remarks: Vacant land. Planning for 4/s flats comprising 48 units.

T.S. Lot
F XXVII 29-1)
30-1)
30-2)

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
61 Cairnhill Rd.	47,137	2,828,220	60.00	C8/73

G Remarks: V.P. sale with a pre-war bungalow presently used as store. No planning approval.

T.S. Lot
XXVII 61-65)
61-94)
61-95)

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Peck Hay Rd.	48,880	—	—	—

Remarks: Assessed for P.T. purposes on 7/73 @ \$40.00 p.s.f. Confirmed by VRB on 25.10.74. Planning approval given for erection of 22/s block (Venus Mansion) consisting of 41-split-level units.

T.S. Lot
I XXVII 337

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Peck Hay Rd.	38,858	—	—	—

Remarks: Vacant land. Adjacent to subject property and used as garden for 10 Cairnhill Circle Assessed for PT purposes on 7/74 @ \$32.00 p.s.f. No planning approval.

T.S. Lot
XXVII 325

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Cairnhill Rd.	74,994	8,300,000	47.43	C9/72

Remarks: V. Land V.P. Sale includes \$1.3 million for piling, \$310,000 for professional fees, \$286,764 for dev. charges. Site of Cairnhill Plaza.

T.S. Lot
XXVI 42-2

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Bt. Timah Rd.	58,319	2,332,760	40.00	C3/73

Remarks: V.P. Sold with old bungalow. Assessed under excess land on 3/74 @ \$29.00 p.s.f.

T.S. Lot
XXV 88

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Bt. Timah Rd.	56,238	—	—	—

Remarks: Vacant land. Assessed for P.T. purposes on 5/74 @ \$35.00 p.s.f. No planning approval.

T.S. Lot
XXIV 105-2

Location	Land Area (sq. ft.)	Sale Price (\$)	Reflect (\$ p.s.f.)	Date
Paterson Rd.	27,954	1,397,700	50.00	C5/73

Remarks: V.P. Sale. Pre-war building, demolished after purchase.

Submission:

The proposed Annual Value has been determined in accordance with section 2(b) of the Property Tax Act and is considered fair and reasonable in the light of sales of comparable lands in the vicinity.

Recommendation:

That the Board confirm the proposed Annual Value of \$26,000 with effect from 4.4.73 as the value is not excessive and is in accordance with the law.

Tax Payable:

Property tax payable on an Annual Value of \$26,000 at 36% would amount to \$9,360 per annum.

(Sd.)
CHONG KOI CHIM
for CHIEF ASSESSOR
1.11.74

O.M.30/75
APPENDIX 'B'

VALUATION REVIEW BOARD

Appeal No. 80/74 — TS XXVII Lot 61-134
Land @ Peck Hay Hoad

Howe Yoon Chong v. Chief Assessor

ORAL GROUNDS OF DECISION

This Appeal relates to a disputed annual value of a piece of land in TS XXVII Lot 61-134 at Peck Hay Road. There is in the Report to the Board a description of the land which we adopt in toto. The land has an area of 14,875 square feet.

The Chief Assessor, under section 18(2) of the Property Tax Act (Cap. 144) (hereafter referred to as "the Act"), issued Notice No. A.117324 dated 1st October, 1973 proposing an annual value of \$26,000 with effect from 4th April, 1973. The Appellant objected to this assessment under section 12(3) of the Act. The Chief Assessor in Notice No. B.19097 dated 11th March, 1974 informed the Appellant that he proposed to make no amendment to the original proposal. The Appellant then filed a Notice of Appeal to this Board. In the Notice of Appeal, the Appellant desired that the annual value should remain at \$1,340.

A As far as the Chief Assessor's representative can ascertain, there has been no revaluation of this land for decades, probably not since early 1950 when the annual value was first determined.

In pursuance of the Grounds of Appeal filed before this Board, Counsel for the Appellant has raised some interesting and novel propositions. As I understand them, in short, these are his submissions.

B Firstly, it is said because of section 9 of the Act the Valuation List must have on it all houses, buildings, land and tenements in Singapore. It is not disputed by the Appellant that the Appellant's land is on the Valuation List. But it seems to be the argument that because some properties are not on the Valuation List, therefore, the Valuation List is invalid. The next point made is, and there has been submitted Exhibit A3 which is a list of comparables, that comparable properties similar to that of the Appellant's have a much lower annual value than the proposal that has been made by the Chief Assessor. Therefore, it is said that since other properties have not been revalued upwards it would be unfair and unjust for the Appellant's property to be revalued. The argument is reinforced by reference to Article 8 of the Constitution which, *inter alia*, provides that all persons are equal before the law. It seems to be the argument that since other properties have not been revalued, therefore, there is discrimination by the Chief Assessor in revaluing the Appellant's property upwards.

D Reference has been made to two English cases, that of *Double v. Assessment Committee of Southampton & Others* reported in [1922] 2 K.B. 213 and *Stirk & Sons Ltd. v. Halifax Assessment Committee* reported in [1922] 1 K.B. 264. Just before the luncheon adjournment, it came to my mind that a not very dissimilar point had arisen before this Board some time ago and on that occasion I had been referred to the case of *Ladies' Hosiery and Underwear Ltd. v. West Middlesex Assessment Committee* reported in [1932] All E.R. Rep. 427. Having given consideration to the English authorities, it seems to me that the first two cases turned on the interpretation of the particular Rating Acts referred to in the decisions. Certainly in the case of *Stirk & Sons Ltd. v. Halifax Assessment Committee* in the judgment itself, Mr. Justice Sankey at page 271 referred to section 18 of the relevant Act which provides that any person who is aggrieved by any valuation list, and I emphasise, "on the ground of unfairness or incorrectness in the valuation of any hereditaments included therein", may appeal against the matter. There is no reference to the relevant statute in the case of *Double v. Assessment Committee of Southampton & Others* but I think it can be inferred that there is a similar provision like the one I have referred to. But, in the Act, in Singapore, however, there is no similar provision. In fact, there is no direction in the Act as to on what grounds an appellant may appeal to this Board.

G The case of *Ladies' Hosiery and Underwear Ltd. v. West Middlesex Assessment Committee* is, of course, a very different one. In it a point of principle was canvassed and decided upon. Lord Scrutton says at page 433: "... The first vital question is the correct valuation according to the statute of the individual hereditament. Where the evidence on this point is clear and uncontradicted, evidence that another hereditament has been incorrectly valued according to the statute is of no weight, unless for the purpose, on proper notice, of correcting that particular inaccuracy." That principle of valuation is, in my view, the correct approach to take of valuation of properties in Singapore.

H The question for decision, then, before this Board is, has a correct valuation been made of the Appellant's land in the re-assessment in 1973? On this issue, the Appellant has called a valuer to give evidence. I do not wish to dwell at length but, with respect, we do not agree with him. We are of the view that for the purposes of the Act, when one makes an assessment of vacant land, it is not correct to exclude in the way the witness had sought to exclude certain portions of the land. Granted that some allowance may have to be made for certain aspects of the land but to go so far as to exclude as much as 5,805 square feet out of a vacant land of 14,875 is, to our mind, wrong. That being so, we are then left with the only other valuation that has been made, and that is, by the Chief Assessor's representative, Mr. Chong Koi Chim, and that is set out in the Report to the Board. Indeed I must say that on the 25th October, 1974, in Appeal No. 434/73, the Board had to make a decision on a piece of property not far

away from the Appellant's land. That, too, raised an interesting question of law. But in that appeal, the appellant, the owner of a block of flats in the course of construction, did not object to the market value of \$40 per square foot for that vacant land. There are other comparables. The Chief Assessor has assessed the Appellant's land at \$35 per square foot for the year under appeal. We are only concerned with the year of appeal, i.e. 1973. We are of the view that it cannot be said that it is an unreasonable assessment. We confirm the annual values and the appeal is dismissed.

Dated the 10th day of December, 1975.

(Sd.)

T. S. SINNATHURAY
Chairman

I agree.

(Sd.)

LYE YUEN WENG
Member

I agree.

(Sd.)

KWEE THIAM SIOE
Member

Appeal allowed.

Solicitors: Rodyk & Davidson.

LIM KIM TJOK v. PUBLIC PROSECUTOR

[A.Cr.J. (Wee Chong Jin C.J.) April 5, 1978]

[Singapore — Magistrate's Appeal No. 99 of 1977]

Criminal Law and Procedure — Corruption — Statement made to C.P.I.B. investigating officer — Accused told to tell the truth — Whether statement admissible — Ample evidence apart from statement — Prevention of Corruption Act (Cap. 104), ss. 6(a) & 26.

Bribery and Corruption — Statement made to C.P.I.B. investigating officer — Accused told to tell the truth — Whether statement admissible — Prevention of Corruption Act (Cap. 104), ss. 6(a) & 26.

This was an appeal against the conviction of the appellant on charges of corruption. At the trial the prosecution relied on a statement made by the appellant to an officer of the Corrupt Practices Investigation Bureau. A trial within a trial was held and according to the evidence it appeared that the appellant was confronted with proof that he was not telling the truth about his presence at the market, that the appellant was asking for lenient treatment if he told "everything" and that the appellant was told that he should tell the truth.

Held: (1) in the circumstances the statement could not be said to be a voluntary statement, that is, that it was not obtained by inducement or threat and it was wrongly admitted in evidence;

(2) there was ample evidence before the trial judge apart from the statement to convict the appellant and the appeal should therefore be dismissed. It was clear from the grounds of decision that no reliance was placed by the trial judge on the appellant's statement to an extent which affected his finding on the crucial question he had to decide.

MAGISTRATE'S APPEAL.

Peter Yap for the appellant.

Loke Yoon Kee (Deputy Public Prosecutor) for the respondent.

Wee Chong Jin C.J.: The appellant, Lim Kim Tjok, was convicted by a District Court on four charges of corruption and sentenced to twelve months' imprisonment in respect of each charge, the sentences to run concurrently. The four charges read as follows:—

A "1. DAC 2694/76

That he, on or about the 20th day of December, 1975 in the afternoon at Tampines Close, Singapore being an agent, to wit, a Police Constable in the employ of the Singapore Police Force, corruptly received from one Kee Ah Chuan @ Ah Lee for himself a gratification of a sum of \$15 (Dollars Fifteen only) as an inducement for forbearing to do an act in relation to his principal's affairs, to wit, to take action against the bookmaking activities at the Tampines Close Market, Singapore, and he had thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104.

B

2. DAC 2707/76

That he, on or about the 2nd day of May 1976 at about 5.20 p.m. at Block 9 Nos. 23/29 Tampines Close, Singapore, being an agent, to wit, a Police Constable in the employ of the Singapore Police Force, corruptly received from one Kee Ah Chuan @ Ah Lee for himself a gratification of a sum of \$15 (Dollars Fifteen only) as an inducement for forbearing to do an act in relation to his principal's affairs, to wit, to take action against the bookmaking activities at the Tampines Close Market, Singapore, and he had thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104.

C

3. DAC 2709/76

That he, on or about the 30th day of May, 1976 at about 4.59 p.m. at Block 9 Nos. 23/29 Tampines Close, Singapore, being an agent, to wit, a Police Constable in the employ of the Singapore Police Force, corruptly received from one Kee Ah Chuan @ Ah Lee for himself a gratification of a sum of \$15 (Dollars Fifteen only) as an inducement for forbearing to do an act in relation to his principal's affairs, to wit, to take action against the bookmaking activities at the Tampines Close Market, Singapore, and he had thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104.

E

4. DAC 2710/76

That he, on or about the 12th day of June, 1976 at about 5.25 p.m. at Block 9 Nos. 23/29 Tampines Close, Singapore, being an agent, to wit, a Police Constable in the employ of the Singapore Police Force, corruptly received from one Kee Ah Chuan @ Ah Lee for himself a gratification of a sum of \$15 (Dollars Fifteen only) as an inducement for forbearing to do an act in relation to his principal's affairs, to wit, to take action against the bookmaking activities at the Tampines Close Market, Singapore, and he had thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104."

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I

At the trial, to prove the charges against the appellant, the prosecution relied on a statement made by the appellant to an officer of the Corrupt Practices Investigation Bureau (hereinafter referred to as "the C.P.I.B."); the evidence of one Kee Ah Chuan, the person from whom the appellant was alleged to have received the gratification; the evidence of several C.P.I.B. officers who saw the appellant in the company of Kee Ah Chuan at the times and places specified in the second, third and fourth charges, and photographs taken by some of those officers. The defence of the appellant was that he placed by telephone bets on horses with Kee Ah Chuan and the arrangement was that accounts had to be settled on the same day at 5 p.m. in the kitchen of Eng Soon Restaurant which premises are known as Block 9, Nos. 23-29 Tampines Close, Singapore. The appellant said that "sometime in December 1975" he won about \$80 and he went at about 5 p.m. through the rear entrance of Eng Soon Restaurant and collected his winnings from Kee Ah Chuan. He continued to place bets with Kee Ah Chuan and one day towards the end of April 1976 he had a good tip and won \$516 on a bet he placed with Kee Ah Chuan. On going to the agreed place